saalt
SOUTH ASIAN AMERICANS LEADING TOGETHER

6930 Carroll Avenue, Suite 506
Takoma Park, MD 20912

Phone: 301.270.1855
Fax: 301.270.1882
info@saalt.org
www.saalt.org

Scenarios for the DOJ Guidance on the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation and Gender Identity

Routine or Spontaneous Activities in Domestic Law Enforcement

Example: A South Asian man with a beard and turban in his early 30's driving in Philadelphia illegally cuts through a parking lot to make a right turn. A police unit signals for him to pull over. The man pulls to the side of the road, leaves both of his hands on the steering wheel, and waits for the officers. The officers approach the car with one officer on the driver's side and the other on the passenger's side. They tell the man that he illegally cut through a parking lot. The man apologizes, explains that he is lost, and needed to turn around. The officers ask him for his driver's license and registration. While the man reaches into his back pocket to take out his wallet, the police officer on the passenger side shining his flashlight at the man notices a clip-knife attached to the man's belt loop. The police officers order the man to step out of the vehicle and arrest him.

Handcuffed, seated in the backseat of the police car, the man explains that he uses the 2-inch knife for his job, and he is not breaking Pennsylvania law by carrying it. The officers ignore his pleas and take him to the precinct. At the precinct, the man is held in a holding cell for four hours. Soon after, they release him without filing charges against him.

South Asian men are routinely targeted and profiled by law enforcement due to their religious presentation of turban and beard, gender, and other identifiable factors. Post 9/11, the turban and beard have become synonymous with "terrorist." As a result, Muslim, Sikh, and South Asian men are unfairly treated with suspicion even when they are law-abiding citizens.

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All Activities Other than Routine or Spontaneous Law Enforcement Activities

Example: A young South Asian man parks his 90's Ford minivan in an adjoining parking lot of a gas station with his Latina friend in a minority neighborhood in St. Louis, Missouri around 5pm. Having bought a snack at the gas station store, the two eat and watch videos on their cell phones. After a few minutes, a police officer taps on the driver's side of the car. The South Asian man rolls down his window. The officer asks the South Asian man and Latina woman what they are doing. The man states that they are just taking a break from driving and eating a snack. The police officer then asks them if they are doing drugs in the car. The two reply no and again state they are just taking a break from driving.

The police officer then directs the man and woman to step out of the vehicle and put their hands on the car. The two passengers comply with the officer's request. The officer proceeds to frisk the two of them and search their car. He finds a small bag of marijuana on the man.

Both, the South Asian man and Latina woman, are arrested and taken into police custody. The officer notes in his arrest report that the racial identity of the driver and the passenger is white. The South Asian man is booked for procession, and the Latina woman is let go.

In this scenario, the police officer did not have reasonable evidence to frisk the passengers and search the car. He based his decision to do so on the driver and passenger's racial identity, socio-economic status, and possible immigration status. Furthermore, in a possible effort to cover up his use of profiling, the officer noted the wrong racial identity of the driver and passenger in his report.

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Example: In April of 2014, Omar, a 30-year-old Muslim male, arrives at Newark International Airport after a week-long tourist trip to Egypt. Omar is a U.S. permanent resident with a Canadian passport. While checking in at Border Security's automated kiosk, his identity confirmation printout has a red "X" placed over his face. Concerned, Omar asks security officials if there is a problem with his check-in. Without explaining the printout, security directs Omar to get in a line for those who have a red X on their printout. Once it is his turn, another security official checks Omar's printout and sends him to the U.S. Customs and Border Protection Office.

At the office, after waiting for two and half hours to be questioned, Omar asks security if he can use the restroom. The official confirms his identity and gives him permission to use the bathroom. A police officer, then, escorts Omar to the nearest restroom across the baggage claim area. Other travelers stare at Omar while he is being escorted to and from the restroom.

Upon returning to the U.S. Customs and Border Protection Office, Omar is called up to answer questions about his recent trip. The security official asks a series of questions: *Why did you travel to Egypt? Why did you go alone? What cities did you visit? Tell me about the tourist sites you visited. What hotels did you stay at? Did you meet with anyone at the hotel? Who did you meet with? Why did you meet this person?* Omar answers that he visited Egypt alone because he likes to take trips to a new country every year for his birthday. He describes each of the tourist sites he visited and shows pictures on his phone. During this time, the official looks up Omar's answers on the internet to confirm that he is telling the truth. The official then asks more questions: *What credit cards do you have? How many bank accounts do you have? How much money is in each of those accounts? Where do you live? Where do you work? How much money do you make from your job?* Again, Omar answers the questions in detail.

After an hour of interrogation, Omar is released and allowed to go home. Throughout the entire process, Omar is treated with suspicion and unfairly targeted based solely on his name, religion, gender, country of visit, and possibly his physical appearance.

Even without the presence of actual wrong doing, Omar and other South Asians like him are routinely criminalized and subjected to humiliating procedures such as security escorts to the restroom. These and other profiling methods used by U.S. Customs and Border Protection expose Muslim and South Asian groups to unnecessary scrutiny.

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Example: A young Indian woman with a 10-year multiple entry visa for the U.S., issued in 2010, to expire in 2020, arrives at the entry port in Chicago via flight from Mumbai, India. She has previously traveled on a tourist visa and has never violated her visa status or extended her stay.

After waiting in the immigration line for two hours, the immigration officer collects her fingerprints and takes a photograph. The officer then asks the woman a series of questions: *What is the purpose of your visit? Do you have a return ticket? How long will you be here for?* The woman informs the officer that she is here to visit a relative for a little less than 6 months and has a return ticket dated before the expiration of her visa. The officer tells the woman to step aside and then another officer escorts her to the U.S. Customs and Border Protection Office.

The woman waits at the U.S. Customs and Border Protection Office for a few hours before being questioned again by another officer. The officer asks the woman why she is taking such a long break. The woman restates that she is visiting to spend time with her sister and has a return ticket. Despite the absence of any red flags, the woman is detained for 24 hours and deported back to India.

The U.S. Customs and Border Protection officers assumed the woman would over stay and not return to her home country based on her profile of Indian nationality and possibly her age and gender instead of evidence of wrongful activity.